

Ecosystem Governance Options

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1. Existing governance structures--DFG/ USFWS/USBR/Others?

Characteristics

- Rely on Department of Fish and Game and US Fish and Wildlife Service and other agencies for implementation.
- Federal funding would continue to be allocated top USBR for distribution. State funding under Proposition 204 would rely on Resources Agency and CALFED Program for managing the state funds and to coordinate the state and federal funding.

Advantages

- Timing. Easy to implement, can be in place before the ROD if desired
- Existing knowledge and relationships in place between agencies.

Disadvantages

- Accountability. No single entity would be held accountable for program implementation and meeting performance objectives.
- Retain focus. Would have to incorporate a very large complex program into one or more existing agencies that could reduce the attention and focus needed to effectively implement the program.
- Coordination and consolidation. Less ability to coordinate and consolidate ecosystem restoration programs, funding, and priority setting into one entity.
- Responsibilities/authorities. Depending on the existing agency that assumes some or all of the ERP implementation--certain authorities may be missing and require legislation.

2. **Public Corporation**

Related Models. National Fish and Wildlife Foundation, Public Broadcasting Corporation, Amtrak, Tennessee Valley Authority.

Characteristics

- Either Federally Chartered Public Corporation or a Joint State and Federal Corporation.
- Only precedent is a Federal Public Corporation. Staff is researching whether a state chartered public corporation has been done and is legally possible.

Advantages

- **Functions.** Congress can draft a charter to incorporate primary functions and authorities.
- **Retain focus.** ERP would be the sole focus of the entity.
- **Stakeholder and agency involvement.** Can select representatives from state federal or private entities for its board.
- **Proactive, responsive.** Can include in its charter--flexible procedures, efficient contracting processes, and other authorities to allow for additional efficiencies.
- **Accountability.** Charter can include reporting requirements to the overall CALFED entity, Congress and Legislature to provide adequate accountability.
- **Coordination and consolidation of programs and funding.** Can receive direct federal appropriations. Unknown if can receive direct state appropriations. To the extent Congress and federal agencies support transfer of other programs to the corporation, consolidation of programs can occur.

Disadvantages

- **Political feasibility.** There may not be any precedent for a state chartered public corporation . Potential legal limitations and possible political resistance to using a less known governance model.
- **Coordination and consolidation of funding and programs.** May not be able to receive state direct appropriations. (See funding questions below.) As a quasi-governmental entity, it may have less influence over other state and federal agencies.
- **Timing.** Longer period to become established (possibly 2-4 years?). Federal agencies have not shown an interest in promoting federal legislation to establish a new entity at this time. Lack of federal agency support may reduce likelihood of legislation passing in near future.

Outstanding Questions

- Can a state public corporation be formed? Can a state public corporation receive direct state appropriations?
- What role, if any, can a public corporation have in the management and consolidation of state or federal bond funds?
- What existing programs will state and federal agencies support being consolidated into a new public corporation?

3. Private Non Profit Organization (501c3)

Related Models. Many private nonprofit organizations have been formed but few with the program purpose and the scope of the CALFED ERP.

Characteristics

- A joint state and federal organization, nongovernmental.

Advantages

- Functions. Bylaws can be drafted to incorporate many of the functions and authorities.
- Retain focus. ERP would be the sole focus of the entity.
- Stakeholder and agency involvement. Private and state representatives can be on the governing board.
- Proactive, responsive. Can include in its bylaws--flexible procedures, efficient contracting processes and other authorities to allow for additional efficiencies.
- Attract private funding sources-- Because of the tax deductible nature of this option it is more likely to attract private funding sources
- Accountability. Bylaws can include reporting requirements to the overall CALFED entity, Congress and Legislature to provide adequate accountability.
- Timing. Does not require state or federal legislation and therefore may be established sooner than other new entity options.

Disadvantages

- Coordination and consolidation of programs and funding. Can not receive direct federal or state appropriations. Other state and federal programs unlikely to be transferred to a nongovernmental entity. As private entity, it would be limited in its ability to affect other state and federal agency actions.
- Stakeholder and agency involvement. Federal agency representatives may not be able to be on the governing board due to potential federal conflict of interest laws.
- Confidentiality. As a private entity, conversations between state and federal agencies and the nonprofit would be subject to FACA.

4. New State /Federal Joint Gov Entity

Related Models. Tahoe Regional Planning Agency.

Characteristics

- Congress would need to authorize a compact between state and federal representatives creating a new agency. State legislation would need to follow.

Advantages

- Functions. Can draft broad scope for authorizing legislation to include all desired functions and principles.
- Retain focus. ERP would be primary focus of new entity.
- Stakeholder and Agency Involvement. Can have state, federal and private representatives on a governing board. Appointment of members less flexible than other new joint entities.
- Proactive, Responsive. Can draw from state and federal laws for authorities. Can assume state or federal authorities as appropriate.
- Coordination and consolidation. Can receive direct appropriations from state and federal sources. As a governmental entity, more ability to influence actions of the other state and federal agencies. Consolidation of programs more likely than other joint options.

Disadvantages

- Political feasibility. May be less feasible since there is no precise model for a joint state/federal entity with similar functions and responsibilities.
- Stakeholder and agency involvement. Appointments would most likely be made by public officials probably in the legislature
- or congress which limits the stakeholder involvement in the appointment process.
- Coordination/Consolidation. To the extent Congress and federal agencies support transfer of other programs to the new joint entity, consolidation of programs can occur.
- Timing. Longer period to become established (possibly 2-4 years?). Federal agencies have not shown an interest in promoting federal legislation to establish a new entity at this time. Lack of federal agency support may reduce likelihood of legislation passing in near future.

Outstanding Questions

- Are there any legal limitations regarding what existing programs can be shifted to a new state/federal entity? What existing programs will state and federal agencies support being consolidated into a new public corporation?

5. State Entity with Federal Involvement

Related Models. Santa Monica Mountains Conservancy

Characteristics

- State legislation would be introduced to establish new conservancy within Resources Agency. Includes federal agency representation on the governing board.

Advantages

- Functions . Can perform the primary functions and responsibilities.
- Retain focus. ERP would be the primary focus. As a state entity it may benefit from less federal congressional involvement.
- Stakeholder and agency involvement. Can have state and private voting members on governing board. Federal representation may require federal legislation.
- Proactive /Responsive. Can provide for more flexible procedures but may be more limited than a private organization.
- Political feasibility. Because there are similar models of state conservancies, and less unknowns, there may be less resistance to a new conservancy.
- Timing. With only state legislation required, new entity may be able to be in place by the time of the ROD.
- Coordination and consolidation. As a governmental entity, may have more influence over other state and federal agencies than other nongovernmental options.

Disadvantages

- Stakeholder and Agency Involvement. May not be able to have voting federal representation w/o federal legislation. Appointments would most likely be made by public officials probably in the legislature or congress which limits the stakeholder involvement in the appointment process.
- Coordination and Consolidation. Cannot receive direct federal appropriations. Consolidation of federal programs less likely.
- Proactive/Responsive. May be less proactive and flexible than private and less governmental models.

Outstanding Questions

- Is federal legislation needed to allow a federal representative to be a voting member on the board of a state entity?